

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

THE CITY OF NEW YORK; THE CITY OF
PHILADELPHIA; and THE CITY AND
COUNTY OF SAN FRANCISCO;

Plaintiffs,

Civil Action No.: 1:17-cv-01464-
CMH-MSN

v.

THE UNITED STATES DEPARTMENT OF
DEFENSE; *et al.*;

Defendants.

**[PROPOSED] PLAINTIFFS' INTERROGATORIES
TO THE ENTITY DEFENDANTS**

Plaintiffs the City of New York, the City of Philadelphia and the City and County of San Francisco (collectively, "Plaintiffs"), by their counsel, pursuant to Federal Rules of Civil Procedure 26 and 33, propound the following interrogatories (each, an "Interrogatory") on Defendants the United States Department of Defense, the United States Department of the Air Force, the United States Department of the Navy and the United States Department of the Army, each of which is required to be answered separately and fully, under oath, within the time period mandated by Federal Rule of Civil Procedure 33 or the Court's order, whichever is shorter.

DEFINITIONS AND INSTRUCTIONS

1. "CJIS" shall mean the Criminal Justice Information Services Division of the FBI.
2. The "1997 Report" shall mean the report published by the Inspector General of the DoD on February 10, 1997, which evaluated the DoD's compliance with its criminal history data reporting requirements.

3. The “2015 Report” shall mean the report published by the Inspector General of the DoD on February 12, 2015, which evaluated the DoD’s compliance with its criminal history data reporting requirements.

4. The “2017 Report” shall mean the report published by the Inspector General of the DoD on December 4, 2017, which evaluated the DoD’s compliance with its criminal history data reporting requirements.

5. “Communication,” “communications,” or “communicate” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

6. “Concerning” shall mean relating to, referring to, describing, evidencing or constituting.

7. “Document” or “document” shall be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

8. The term “identify” when used in reference to a person or persons shall mean the following:

A. For a natural person, give to the extent known, the person’s full name, the present or last known address and present or last known place of employment.

B. For other persons, give to the extent known: (i) the full name of the organization or entity; and (ii) the name, employer, job title, business address, telephone number, and place of work of each individual employed by, affiliated with or representing such organization or entity with whom communications have been made relating to the subject matter of the interrogatory.

9. The term “identify” when referring to a document shall mean to give, to the extent known: (i) the type of document; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) the author(s), addressee(s), and recipient(s) of the document.

10. The term “identify” when referring to a communication, shall mean to give, to the extent known: (i) the date and place of such communication; (ii) the identity of each person who was present at, involved in, connected with or who participated in such communication; (iii) the identity of the type of communication (e.g., letter, telegram, conference, telephone conversation, etc.); (iv) the identity of each document reflecting or comprising such communication; and (v) the substance of each such communication.

11. “Include” and “including” shall have their ordinary meaning and shall mean “including, but not limited to.”

12. “Knowledge,” “information,” “possession,” “custody,” and “control” possessed or exercised by a person shall be construed to include “knowledge,” “information,” “possession,” “custody,” and “control” possessed or exercised by such person’s agents, representatives, and attorneys.

13. “Person” or “individual” shall mean any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

14. “Refer” or “Relate to” shall mean containing, constituting, discussing, describing, identifying, referring to, supporting, explaining, contradicting and/or in any way pertaining to the subject specified.

15. If you believe that any of the following Interrogatories calls for the production or disclosure of information that you claim contains privileged material, produce so much of the information as is not objected to, and set forth, with respect to all information as to which a claim

of privilege is asserted, the nature of the privilege claimed (e.g., attorney-client and/or work product privileges) and all the reasons upon which you base the claim of privilege. For any information as to which you claim privilege, state:

- A. for documents: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter of the document; (iii) the date of the document; and (iv) the author of the document, the addressees of the document, and any other recipients, and, where not apparent, the relationship of the author, addressees, and recipients to each other; and
- B. for oral communications: (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of communication; and (iii) the general subject matter of the communication.

16. The singular of each word shall be construed to include its plural and vice versa, and the root word and all forms thereof (i.e., participles and infinitives, etc.) shall be construed to include each other.

17. “And” as well as “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

18. “Each” shall be construed to include “all,” and vice versa.

19. “Any” shall be construed to include “all,” and vice versa.

20. The present tense shall be construed to include the past tense, and vice versa.

21. The masculine shall be construed to include the feminine, and vice versa.

22. These Interrogatories are continuing in nature, and require that you serve supplemental answers that set forth any further information within the scope of the Interrogatories as may be acquired by you following your original answers to these Interrogatories.

23. If, after reasonable and thorough investigation using due diligence, you are unable to answer any Interrogatory, or any part thereof, because of lack of information available to you, please specify in full and complete detail the reason that the information is not available and what efforts have been made to locate such information. In addition, please specify what knowledge you do have concerning the unanswered portion of the Interrogatory and set forth the facts upon which such knowledge is based.

24. If, in responding to these Interrogatories, you believe there are any ambiguities in an Interrogatory or definition, you shall not avoid responding to the Interrogatory, but rather shall set forth the matter deemed ambiguous and the construction used in responding to the Interrogatory.

25. If any of the Interrogatories are objected to on grounds of over breadth, please respond as narrowed to conform to the objection and state: (i) the basis on which the response is being made; and (ii) the reason the Interrogatory was overly broad.

26. For any information deliberately withheld for any reason, please provide a written statement setting forth: (i) the identity of each person from and to whom the information has been communicated; (ii) a brief description of the subject matter of the information; (iii) the legal basis relied upon in withholding the information; and (iv) the relevant dates for the information, including without limitation the date of any communications or documents involved.

INTERROGATORIES

1. Identify each instance in the past five years when you failed to communicate to CJIS within ninety days information in your possession, custody or control regarding the criminal conviction or dishonorable discharge of a member of the Military Services and state:
(a) the reason for that communication failure; (b) how that communication failure was discovered; (c) when that communication failure was discovered; (d) when that communication failure was cured, if it has been cured; and (e) if that communication failure has not yet been cured, why it has not yet been cured.
2. Identify each of your present and former officers, employees, agents or representatives who have been charged within the past five years with responsibilities regarding the reporting to CJIS of criminal conviction or dishonorable discharge information of members of the Military Services.
3. Describe all actions taken or considered to be taken, including any remedial action taken, in connection with or because of the 1997 Report.
4. Describe all actions taken or considered to be taken, including any remedial action taken, in connection with or because of the 2015 Report.
5. Describe all actions taken or considered to be taken, including any remedial action taken, in connection with or because of the 2017 Report.
6. Identify all Persons within the Executive Branch or the Legislative Branch of the United States Government known by you to have received a copy of the 1997 Report.
7. Identify all Persons within the Executive Branch or the Legislative Branch of the United States Government known by you to have received a copy of the 2015 Report.

8. Identify all Persons within the Executive Branch or the Legislative Branch of the United States Government known by you to have received a copy of the 2017 Report.

9. Identify all documents referred to or relied upon in answering these Interrogatories, or which otherwise refer or relate to your answers to these Interrogatories.

10. Identify all Persons involved in the gathering of information for, or preparation of, answers to these Interrogatories.

January __, 2018

Respectfully submitted,

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